UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,160	12/12/2003	Sridhar Balasubramanian	03-1840	1647

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LSI Logic Corporation
Legal Department - IP
1621 Barber Lane, MS D-106
Milpitas, CA 95035

EXAMINER
GU, SHAWN X

ART UNIT	PAPER NUMBER
2189	

MAIL DATE	DELIVERY MODE
03/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/735,160	Applicant(s) BALASUBRAMANIAN, SRIDHAR	
	Examiner Shawn X. Gu	Art Unit 2189	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>18 February 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

 a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

 (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

 (b)☐ They raise the issue of new matter (see NOTE below);

 (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

 (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

 NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>Rejection of claims 23 and 24 under 35 U.S.C. 112, para. 2</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

 The status of the claim(s) is (or will be) as follows:

 Claim(s) allowed: _____.

 Claim(s) objected to: _____.

 Claim(s) rejected: <u>1,4-12,15-17 and 21-24</u>.

 Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Reginald G. Bragdon/
Supervisory Patent Examiner, Art Unit 2189

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant's argument that Corrington et al. failed to teach that the software used by the operator is actually executed by the RAID storage controller since Corrington et al.'s software is executed by ICU 22 instead of by RAID controller 24 (see Corrington et al. Fig. 2 and Abstract) is respectuflly traversed. Although the ICU 22 and RAID controller 24 in Corrington et al. appear to be separate objects, this fact alone does not prohibit one of ordinarily skill in the art to consider ICU 22 as a part of a RAID storage controller since Corrington et al. teaches the ICU 22 is an interface between the system administrator and the RAID system 10 (see Corrington et al. col. 5, lines 35-45). It should be clear that any component in Corrington et al. that has functionalies associated with any aspect of RAID storage control operations can be considered part of the RAID storage controller (see Corrington et al., Abstract, "[t]he RAID system includes an intelligent control unit ("ICU") … [t]he ICU allows the system administrator to access the RAID system Monitor Utility so that the status of the system may be monitored and its configureation changed" … "[t]he RAID controller controls the functions of the RAID set as programmed and configured using the Monitor Utility), and in this regrad Corrington et al.'s RAID storage controller can be considered as the combination of the ICU 22, the RAID system Monitor Utility and the RAID controller 24, since these three components must work in collaboration to perform the controlling operations of the RAID system 10. Therefore, the software executed by Corrington et al.'s ICU 22 is also executed by its RAID storage controller and the software is used by an operator since the ICU 22 is an interface between the system administrator and the RAID system 10.